

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WILLIE BEARD, III  
1516 Rudolph Drive  
Bethlehem, PA 18018

Plaintiff,

v.

REEB MILLWORK CORP., d/b/a REEB  
MILLWORK  
1000 Maloney Circle  
Bethlehem, PA 18018

Defendant.

CIVIL ACTION

DOCKET NO.:

**JURY TRIAL DEMANDED**

**CIVIL ACTION COMPLAINT**

William Beard, III (*hereinafter* referred to as "Plaintiff," unless indicated otherwise), by and through his undersigned counsel, hereby avers as follows:

**INTRODUCTION**

1. This action has been initiated by Plaintiff against Reeb Millwork Corp., d/b/a Reeb Millwork (*hereinafter* referred to as "Defendant") for violations of the Americans with Disabilities Act, as amended ("ADA" - 42 USC §§ 12101 *et. seq.*), the Family and Medical Leave Act ("FMLA" - 29 U.S.C. §2601 *et. seq.*), and the Pennsylvania Human Relations Act ("PHRA").<sup>1</sup> As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

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<sup>1</sup> Plaintiff will move to amend the instant Complaint to include violations of the PHRA after full administrative exhaustion before the Pennsylvania Human Relations Commission. Such claims will identically mirror Plaintiff's federal claims asserted herein under the ADA.

### **JURISDICTION AND VENUE**

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§1331 and 1343(a)(4) because it arises under laws of the United States and seeks redress for violations of civil rights under the FMLA and the ADA.

3. This Court may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction in order to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. §1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

5. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and also dual-filed said charge with the Pennsylvania Human Relations Commission ("PHRC"). Plaintiff has properly exhausted his administrative proceedings (with respect to his ADA claims) before initiating this action by timely filing and dual-filing his Charge with the EEOC and PHRC, and by filing the instant lawsuit within 90 days of receiving a right-to-sue letter from the EEOC.

### **PARTIES**

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual, with an address as set forth in the caption.

8. Defendant Reeb Millwork Corp. is a company headquartered in Bethlehem, PA, which engages in the distribution of millwork products including door and window products.

9. At all times relevant herein, Defendant acted by and through its agents, servants and/or employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

### **FACTUAL BACKGROUND**

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff worked for Defendant for approximately three (3) years, from in or about August 2014 through on or about July 10, 2017, as a Picker.

12. Throughout Plaintiff's employment with Defendant, he was a dedicated and hard-working employee, who performed his job well.

13. Plaintiff suffers from disabilities, including but not limited to heart conditions, which include issues stemming from a heart aneurysm.

14. Plaintiff's aforesaid health conditions, at times, affect his ability to perform some daily life activities, including but not limited to working and performing manual tasks.

15. Despite Plaintiff's aforesaid health conditions and limitations, he was still able to perform the duties of his job well with Defendant; however, he did require reasonable accommodations, including the use of intermittent time off from work for his conditions and to receive treatment by his physicians.

16. Plaintiff informed Defendant's management and Human Resources of his disabilities and need for leave, applying for leave under the FMLA in or about January 2017.

17. Moreover, Plaintiff informed Defendant that he would be required to submit to his physician for testing pertaining to his disabilities, which was scheduled to occur in or about late early July 2017.

18. From in or about January 2017 through his separation in or about July 2017, Plaintiff was approved for and utilized intermittent FMLA leave for his health conditions (also a reasonable accommodation under the ADA).

19. In response to Plaintiff's use of FMLA leave, however, Defendant's management would exhibit great animosity and hostility pertaining to Plaintiff's leave, including but not limited to making derogatory comments pertaining to his use of leave and by assessing points against Plaintiff under Defendant's attendance policy for absences that were directly related to his health conditions.

20. By way of example, Defendant's management, including but not limited to Tim Moore (Plaintiff's Supervisor), would consistently make comments to Plaintiff that work was not being completed because of his aforementioned use of medical leave, and would become noticeably angered and frustrated when Plaintiff would notify and/or remind him of his upcoming need for leave due to scheduled doctor's appointments, by throwing his hands in the air and making comments like "not again!"

21. In or about early July 2017, as Plaintiff had previously noticed to Defendant's management and Human Resources, Plaintiff missed time from work to due to his disabilities and to attend medical testing pertaining to the same.

22. After returning from his aforementioned leave pertaining to his disabilities, Plaintiff was abruptly informed that he was terminated for accumulating too many points under Defendant's attendance policy.

23. A number, if not all, of the points used against Plaintiff pursuant to Defendant's attendance policy at the time of his termination, however, were assessed against Plaintiff for his use of medical leave for his disabilities, for which he had been approved for leave under the FMLA.

24. Plaintiff believes and therefore avers that he was terminated as a result of his actual/perceived/record of disabilities, in retaliation for requesting and utilizing accommodations (including FMLA-qualifying medical leave), and/or as a direct result of Defendant's failure to accommodate Plaintiff's disabilities.

25. Plaintiff further believes and therefore avers that he was terminated in violation of the ADA and FMLA.

**First Cause of Action**

**Violations of the Americans with Disabilities Act, as Amended ("ADAAA")**

**([1] Actual/Perceived/Record of Disability Discrimination; [2] Retaliation; [3] Failure to Accommodate)**

26. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

27. Plaintiff suffers from health conditions which qualify as disabilities under the ADAAA.

28. Defendant is an "employer" under the ADAAA, as it has at least fifteen (15) employees.

29. Plaintiff notified Defendant of his health conditions and need for leave, and was subjected to hostility and animosity pertaining to the same by Defendant's management.

30. Plaintiff was also terminated as a result of his actual/perceived/record of disabilities, in retaliation for requesting and utilizing accommodations (including FMLA-

qualifying medical leave), and/or as a direct result of Defendant's failure to accommodate Plaintiff's disabilities.

31. These actions as aforesaid constitute violations of the ADAAA.

**Second Cause of Action**  
**Violations of the Family and Medical Leave Act ("FMLA")**  
**(Interference and Retaliation)**

32. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

33. Plaintiff was an eligible employee under the definitional terms of the FMLA, 29 U.S.C. § 2611(a)(i)(ii).

34. Plaintiff requested leave from Defendant, his employer, with whom he had been employed for at least twelve months pursuant to the requirements of 29 U.S.C.A § 2611(2)(i).

35. Plaintiff had at least 1,250 hours of service with the Defendant during his last full year of employment.

36. Defendant is engaged in an industry affecting commerce and employs fifty (50) or more employees for each working day during each of the twenty (20) or more calendar work weeks in the current or proceeding calendar year, pursuant to 29 U.S.C.A § 2611(4)(A)(i).

37. Plaintiff was entitled to receive leave pursuant to 29 U.S.C.A § 2612 (a)(1) for a total of twelve (12) work weeks of leave on a block or intermittent basis.

38. Defendant committed interference and retaliation violations of the FMLA by: (1) terminating Plaintiff for requesting and/or exercising his FMLA rights and/or for taking FMLA-qualifying leave; (2) by considering Plaintiff's FMLA leave needs in making the decision to terminate him; and/or (3) reprimanding and terminating Plaintiff to prevent and/or discourage him from taking further FMLA-qualifying leave in the future.

39. These actions as aforesaid constitute violations of the FMLA.

**WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to be prohibited from continuing to maintain its illegal policy, practice or custom of discriminating/retaliating against employees and is to be ordered to promulgate an effective policy against such unlawful acts and to adhere thereto;

B. Defendant is to compensate Plaintiff, reimburse Plaintiff and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to past lost earnings, future lost earnings, salary, pay increases, bonuses, medical and other benefits, training, promotions, pension, and seniority. Plaintiff should be accorded those benefits illegally withheld from the date he first suffered retaliation/discrimination at the hands of Defendant until the date of verdict;

C. Plaintiff is to be awarded liquidated and/or punitive damages, as permitted by applicable law(s) alleged asserted herein, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

D. Plaintiff is to be accorded any and all other equitable and legal relief as the Court deems just, proper and appropriate including for emotional distress;

E. Plaintiff is to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable federal and state law;

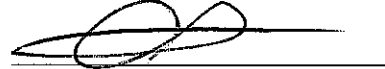
F. Any verdict in favor of Plaintiff is to be molded by the Court to maximize the financial recovery available to Plaintiff in light of the caps on certain damages set forth in applicable federal law; and

G. Plaintiff's claims are to receive a trial by jury to the extent allowed by applicable law. Plaintiff has also endorsed this demand on the caption of this Complaint in accordance with Federal Rule of Civil Procedure 38(b).

Respectfully submitted,

**KARPF, KARPf & CERUTTI, P.C.**

By:

A handwritten signature in black ink, appearing to be 'Ari R. Karpf', written over a horizontal line.

Ari R. Karpf, Esq.  
3331 Street Road  
Two Greenwood Square  
Building 2, Ste. 128  
Bensalem, PA 19020  
(215) 639-0801

Dated: April 25, 2018



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Willie Beard III

CIVIL ACTION

v.

Reeb Millwork Corp., d/b/a Reeb Millwork

NO.

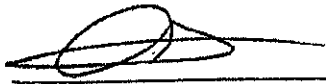
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

4/25/2018

Date



Attorney-at-law

Plaintiff

Attorney for

(215) 639-0801

Telephone

(215) 639-4970

FAX Number

akarpf@karpf-law.com

E-Mail Address

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1516 Rudolph Drive, Bethlehem, PA 18018

Address of Defendant: 1000 Maloney Circle, Bethlehem, PA 18018

Place of Accident, Incident or Transaction: Defendant's place of business

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_

Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) \_\_\_\_\_
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Ari R. Karpf, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(a)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 4/25/2018

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

NOTE: A trial de novo will be a trial by jury only if there has been compliance with P.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/25/2018

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## REEB MILLWORK CORP., d/b/a REEB MILLWORK

County of Residence of First Listed Defendant **Northampton**

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4

Citizen of Another State	2	2	Incorporated <i>and</i> Principal Place of Business In Another State	5	5
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Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6
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**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

[Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT		PORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))		
<input type="checkbox"/> 120 Marine			<input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)			
<input type="checkbox"/> 130 Miller Act			<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		<b>FEDERAL TAX SUITS</b>			
<input type="checkbox"/> 140 Negotiable Instrument			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 462 Naturalization Application				<b>IMMIGRATION</b> <input type="checkbox"/> 465 Other Immigration Actions	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment			<input type="checkbox"/> 751 Family and Medical Leave Act						
<input type="checkbox"/> 151 Medicare Act			<input type="checkbox"/> 790 Other Labor Litigation						
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)			<input type="checkbox"/> 791 Employee Retirement Income Security Act						
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits									
<input type="checkbox"/> 160 Stockholders' Suits									
<input type="checkbox"/> 190 Other Contract									
<input type="checkbox"/> 195 Contract Product Liability									
<input type="checkbox"/> 196 Franchise									
REAL PROPERTY		CIVIL RIGHTS		PRISONER PETITIONS					
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 443 Housing/ Accommodations	<input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 448 Education		
<input type="checkbox"/> 220 Foreclosure									
<input type="checkbox"/> 230 Rent Lease & Ejectment									
<input type="checkbox"/> 240 Torts to Land									
<input type="checkbox"/> 245 Tort Product Liability									
<input type="checkbox"/> 290 All Other Real Property									

## V. ORIGIN (Place an "X" in One Box Only)

Xi	Original Proceeding	2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from Another District (specify)	6 Multidistrict Litigation - Transfer	8 Multidistrict Litigation - Direct File
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## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:

ADA (42USC12101); FMLA (29USC2601)  
Brief description of cause:  
Violations of the ADA, FMLA and PHRA.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

## DEMANDS

CHECK YES only if demanded in complaint:  
JURY DEMAND:      X Yes      ' No

**VIII. RELATED CASE(S)  
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE 4/25/2018

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

## APPLYING IFP

JUDGE

MAG. JUDGE

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